

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5300

AN ORDINANCE relating to the regulation of noise created by repair, addition and maintenance projects on existing single family homes, grounds and appurtenances, to amplified sound, to the clarification of administrative responsibilities and enforcement authority, to the removal of mandatory warnings and graduated monetary penalties for first time violators and to the classification of land use districts for identification of environmental designations; amending Sections 9.18.015, 9.18.020, 9.18.025, 9.18.050 and 9.18.060 of the Bellevue City Code.

WHEREAS, the noise control regulations currently allow any sounds generated by repair, addition and maintenance projects on existing single family homes, grounds and appurtenances between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 10:00 p.m. on weekends; and

WHEREAS, the City Council finds that noise originating from heavy equipment such as pile drivers, dozers and backhoes, used for maintenance and improvement projects on existing single family homes disturbs the peace and quiet of adjacent residents when work is undertaken during evening hours and on Sundays and legal holidays; and

WHEREAS, the City Council finds that maintenance and improvement projects undertaken by the typical homeowner do not require the use of heavy equipment such as pile drivers, dozers, backhoes; and

WHEREAS, it is the desire of the City Council to strike a balance between the competing policies of controlling noise pollution and minimizing barriers to residents performing maintenance and improvement projects on single family homes; and

WHEREAS, it is the desire of the City Council to remove barriers to effective Police Department enforcement of the Noise Control Code by eliminating mandatory warnings and graduated monetary penalties for first time violators; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), RCW 43.21C, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.18.015 of the Bellevue City Code is hereby amended to add a definition of "Heavy Equipment" as follows:

9.18.015 Definitions.

All terminology used in this chapter which is not defined below shall be interpreted in

conformance with the most recent definitions used by the American National Standards Institute (ANSI) or its successor body.

- A. “Arterial” means a principal, minor or collector arterial as now or hereafter defined in the city’s comprehensive plan, Policy TR-39.
- B. “A-weighted sound level” means the sound pressure level in decibels measured using the “A” weighting network on a sound level meter as specified by the American National Standards Institute specification for sound level meters as now existing or as hereafter amended or modified. The level so read is designated dBA.
- C. “Construction” means any site preparation (including blasting), assembly, erection, demolition, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities or similar property.
- D. “Decibel (dB)” means a unit for measuring the volume of sound.
- E. “EDNA” means environmental designation for noise abatement, which is an area within which maximum permissible noise levels are established by the Washington State Department of Ecology and Bellevue City Code.
- F. “Emergency work” means work required to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities to provide or restore immediately necessary utility service.
- G. “Generator, portable” means an electricity-generating device that is not permanently mounted and uses temporary wiring to supply electrical service.
- H. “Generator, stationary” means an electricity-generating device with noise attenuation that is permanently mounted and uses permanent wiring to supply electrical service.
- I. “Heavy Equipment” means backhoes, concrete mixing and pumping trucks, compactors/rollers, cranes, dozers, dump trucks, excavators, fork lifts, graders, jackhammers, loaders, pavement breakers, pile drivers, portable crushers, tractors, trailer-mounted woodchippers, trenchers, or other pieces of equipment that generate similar levels of noise.
- J. “Impulsive sound” means sound of short duration, usually less than one second, with an abrupt onset and rapid decay, with a peak value exceeding the ambient level by more than 10 dBA.
- K. “Ldn” means the day-night average sound level which is a 24-hour energy average of the A-weighted sound pressure level where 10 dBA is added to nighttime noise levels from 10:00 p.m. to 7:00 a.m. before averaging.
- L. “Legal holiday” means Sundays and holidays as defined by the city of Bellevue and in RCW 1.16.050 as now exists or as hereafter amended or modified.

M. “Leq” means the equivalent A-weighted sound level which is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

N. “Noise disturbance” means any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or any sound which unreasonably injures or endangers the comfort, repose, health, hearing, peace, or safety of persons or animals.

O. “Pure tone component” means any sound which can be distinctly heard as a single pitch or a set of single pitches. A pure tone shall exist if the 1/3 octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by five decibels for center frequencies of 500 Hz and above, by eight decibels for center frequencies between 160 Hz and 400 Hz, and by 15 decibels for center frequencies less than or equal to 125 Hz.

P. “Receiving property” means real property within which sound originating from outside the property is received.

Q. “Sound level” means a weighted sound pressure level measured by the use of a sound level meter using an A-weighted network and reported as decibels, dBA.

R. “Sound level meter” means a device which measures sound pressure levels and conforms to Type I, S1A, Type II or S2A, as specified in the American National Standards Institute Specification Section 1.4 (1971) as now exists or as hereafter amended or modified.

S. “Warning device” means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle backup signal.

T. “Weekday” means any day Monday through Friday which is not a legal holiday.

U. “Weekend” means Saturday, Sunday and any legal holiday.

Section 2. Section 9.18.020 of the Bellevue City Code is hereby amended as follows:

9.18.020 Exemptions.

A. The following sounds are exempt from the provisions of this chapter:

1. Sounds caused by natural phenomena or wildlife; and
2. Unamplified sounds created by domestic animals as permitted by BCC Title 20, or as regulated by Chapter 8.04 BCC; and

3. Sounds created by emergency equipment and work necessary for law enforcement or for the health, welfare and safety of the community; and

4. Sounds created by portable generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage; and

5. Sounds created by stationary generators that do not exceed a sound level of 75 dBA at any property line during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage; and

6. Sounds originating from aircraft in flight; and

7. Sounds created by motor vehicles when regulated by Chapter 173-62 WAC; and

8. Sounds created by water craft when regulated by Chapter 173-70 WAC; and

9. Sounds created by surface carriers engaged in interstate commerce by railroad; and

10. Sounds created by safety and protective warning devices where noise suppression would render the device ineffective; and

11. Sounds created by existing electrical substations and stationary equipment used to convey water, waste water or natural gas by a utility; and

12. Sounds from existing industrial installations which exceed standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of normal necessity and/or demonstrated routine normal operation. Changes in working hours, which would increase the average day-night sound level (Ldn), require written approval of the director of design and development pursuant to subsection E of this section.

B. The following sounds are exempt from the provisions of this chapter at all times if the receiving property is in Class B and Class C EDNAs, and between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 10:00 p.m. on weekends if the receiving property is located in a Class A EDNA:

1. Sounds created by bells, chimes and carillons not operating continuously for more than five minutes in any one hour; and

2. Sounds created by the repair or installation of essential utility services and streets; and

3. Sounds relating to temporary repair, addition or maintenance projects on existing single-family homes, grounds and appurtenances (except that sounds created by heavy equipment will be regulated pursuant to the construction noise

exemption contained in subsection C of this section); and

4. Sounds emanating from officially sanctioned parades or other civic events; and

5. Sounds emanating from discharge of firearms on legally established shooting ranges; and

6. Sounds created by repairing, rebuilding, modifying, operating or testing any motor vehicle or internal combustion engine (except for portable and stationary generators located in a Class A EDNA which are exempt only during the hours of 9:00 a.m. to 6 p.m. daily when electrical service is available from the primary supplier and except for heavy equipment, which will be regulated pursuant to the construction noise exemption contained in subsection C of this section); and

7. Sounds created by commercial business activity including, but not limited to: handling containers and materials; or sweeping parking lots and streets (except sweeping parking lots of businesses engaged in retail trade as defined in the Standard Industrial Classification Manual is exempt until 12:00 midnight); or boarding domestic animals (except expanded hours of operation may be authorized by the applicable department director).

8. Amplified sounds that comply with a permit issued pursuant to BCC 9.14.

C. Sounds created by construction and emanating from construction sites are exempt from the provisions of this chapter between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and 9:00 a.m. and 6:00 p.m. on Saturdays which are not legal holidays. Sounds emanating from construction sites on Sundays or legal holidays or outside of the exempt work hours are prohibited pursuant to BCC 9.18.040 unless expanded hours of operation are authorized by the applicable department director subject to the following criteria. Approval of expanded exempt hours may be authorized if:

1. Necessary to accommodate: transportation mitigation such as evening haul routes; construction on schools and essential government facilities which cannot be undertaken during exempt hours; construction activities and site stabilization in the fall prior to the onset of winter weather; or, emergency work; or

2. Sounds created by construction will not exceed the maximum permissible environmental noise levels contained in BCC 9.18.030 as verified by sound level monitoring conducted before and during construction by a qualified acoustic consultant.

D. Sounds originating from public parks, playgrounds, and recreation areas are exempt from the provisions of this chapter during the hours the parks, playgrounds or recreation areas are open for public use as established under Chapter 3.43 BCC, as now existing or hereafter amended and modified.

E. The sounds in subsections B and D of this section are subject to the

maximum permissible environmental sound levels in BCC 9.18.030 and the noise disturbance provisions in BCC 9.18.040 at all times other than when they are specifically exempt or authorized. The sounds in subsection B.8 of this section are also subject to the quiet zone prohibitions in BCC 9.18.042.

F. Nothing in these exemptions is intended to preclude the applicable department director through the authority of the State Environmental Policy Act from requiring installation of the best available noise abatement technology consistent with feasibility.

Section 3. Section 9.18.025 of the Bellevue City Code is hereby amended as follows:

9.18.025 Identification of environments.

A. Environmental designations for noise abatement are as follows:

1. Residential Land Use District: Class A EDNA;
2. Commercial Land Use District: Class B EDNA;
3. Industrial Land Use District: Class C EDNA;

B. The land use districts listed in the City of Bellevue Land Use Code, Title 20 of the Bellevue City Code, are classified for the purposes of this chapter as follows:

1. Residential land use district: R-1, R-1.8, R-2.5, R-3.5, R-4, R-5, R-7.5, R-10, R-15, R-20, R-30;
2. Commercial land use district: PO, O, OLB, NB, CD, CBD;
3. Industrial land use district: LI, GC.

Section 4. Section 9.18.050 of the Bellevue City Code is hereby amended as follows:

9.18.050 Violation – Penalty.

A. Violations – Unlawful. The violation or failure to comply with any of the provisions of this chapter is declared to be unlawful.

B. Civil Noise Infraction. Any violation of the provisions of sections 9.18.020, 9.18.040 or 9.18.042 of this chapter is a civil noise infraction as provided for in Chapter 7.80 RCW for which a monetary penalty may be assessed. If a person violates the provisions of sections 9.18.020, 9.18.040 or 9.18.042 of this chapter a citation shall be issued assessing a monetary penalty in the amount of \$250.00.

C. Civil Violations. Any violation of the provisions of sections 9.18.030 or 9.18.045 of this chapter is a civil violation as provided for in Chapter 1.18 BCC for

which a monetary penalty may be assessed and abatement may be required as provided therein.

D. Criminal Violations. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates the provisions of this chapter is guilty of a misdemeanor.

Section 5. Section 9.18.060 of the Bellevue City Code is hereby amended as follows:

9.18.060 Administration and authority.

A. Administration. The Department of Planning and Community Development shall be responsible for the administration of this chapter.

B. Enforcement.

1. Civil Noise Infractions. The Police Department shall be responsible for the enforcement of provisions of this chapter relating to noise disturbances (including associated exemptions) and noise in quiet zones, and is authorized to issue, serve and file notices of civil noise infractions for violations of sections 9.18.020, 9.18.040 and 9.18.042 of this chapter.

2. Civil Violations. The Department of Planning and Community Development shall be responsible for the enforcement of provisions of this chapter relating to stationary noise sources, maximum permissible noise levels and development restrictions, and is authorized to issue civil violations for violations of sections 9.18.030 and 9.18.045 of this chapter.

3. Construction Hours Posting. The Building Official shall be responsible for the enforcement of section 9.18.044 of this chapter relating to the posting of construction hours.

Section 6. This ordinance shall take effect and be in force thirty (30) days after passage by the City Council and approval by the Department of Ecology.

PASSED by the City Council this 18th day of June, 2001, and signed in authentication of its passage this 18th day of June, 2001.

(SEAL)

Chuck Mosher, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan, Assistant City Attorney

Attest:

Myrna L. Basich, City Clerk

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